

United States District Court  
Middle District of Pennsylvania

Norman N. Shelton

Plaintiff

"vs"

defendants.

Warden Bledsoe et. al

Plaintiffs Brief for Summary judgement  
Fed. R. Civ. P. 56. (c)

No. 4:11-CV-0368

Judge Nealon

File 2/25/11

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## Background

On February 25, 2011 Norman N. Shelton, an inmates confined in the United States Penitentiary, Lewisburg ("U.S.P. Lewisburg"), Pennsylvania, filed the above captioned Bivens, action, Pursuant to 28, U.S.C. § 1331. He names as defendants five (5) employees of Lewisburg. Plaintiff raises claims of deliberate indifference to his safety and excessive use of force with regards to events surrounding an August 30, 2009 and Nov. 26, 2009 assault and battery by his cellmates, (Doc. 1, complaint).

In-addition Plaintiff generally states racial discrimination by staff and complaints of various forms of mistreatment, including "corporal punish"). The use of restraints, harassment, and being deprived of water, lights and sleep.

1.) Plaintiff wish to ensure that this Honorable Court clearly Understands that Plaintiff Claim are actual facts and legally support-ed that entitles Plaintiff to relief that he seeks in his complaint. The factual basis, of circumstances surrounding the following cases, are to support Plaintiff reasons of why Plaintiff are using them, Because of the relevantance and purpose to show the genuine facts and rules of law. (That governs the issue/claims.) (1 of 1)

2.) Plaintiff's Constitutional rights were violated by the defendants, Heath, Potter, Raup, Whittaker, Galletta, who inflicted pain and injury to Plaintiff and who refuse to follow legislative policy, or the Bureau of Prisons policy or the standards of fairness. They are following a un-written policy of hatred, corruption, and criminal acts. Defendants violated the eighth amendment towards Plaintiff. In Plaintiff's argument in which he brings forth to this Honorable Court, Plaintiff use this case of *[Felix vs, McCarthy 939, Fed 699 (Cir, 1991)]*.

3.) As precedent to the point of the improper use of authority, where as the Courts ruled that it is not the degree of injury which makes out a violation of the eighth amendment, Rather, it is the use of official force or authority that is intentional unjustified, brutal and offensive to human dignity. The rules of law to the facts supporting of the rules of law to the facts supporting Plaintiff's Claims of Genuine Facts. The Components in this instant action are properly developed by the actions displayed by the defendants on August 30, 2009 and again on Nov. 26, 2009.

4.) The defendant's Heath, Potter, Whittaker, Raup, Galletta, were ineffective towards their duties of care to Plaintiff's well being and the type of errors that prevailed in both of those incidents, where they applied excessive use of force "was" inflicted on Plaintiff by the above named defendants. "Unconstitutional Conduct of employees, (see) " " " Monell vs, New York City Dept. of Social Services, 436 U.S. 658, 689, (1978) and " Pembaur vs, Cincinnati, 475 U.S. 475, 469, 479 (1986) City of Canton Ohio vs, Harris, 489 U.S. 378, 387 (1989). Plaintiff cell mates assault and battery upon him ~~violated~~ Plaintiff clearly violates the standard of care that's owed to all prisoners.

5.) Defendants did not have a reasonable basis for the use of excessive force. Plaintiff's hands were cuffed behind his back and he was bleeding from the face, mouth, and nose, and face down on the ground with defendants Heath, Potter, Whittaker, Raup, and Galletta assault and battery continued. Defendants illustrated deliberate indifference and prejudice against Plaintiff by committing the prohibited act of punching and slamming Plaintiff on the ground face first and L.T. Heath placing her knee in the back of Plaintiff's neck stopping him from breathing.

6.) The defendants' actions that day, August 30, 2009, shows why there were no likelihood of a different type of outcome could have come from them, failure to train, failure to supervise, failure to discipline in which can and do cause violations to Plaintiff's rights and failure to follow the procedures that governs them as official for the United States of America (see: *Serrano vs. Gonzales* 909 F.2d 8 (1st cir 1990). an officer was found to have violated Serrano's Constitutional rights when officer neither intervened or called for help when Serrano was repeatedly stabbed by two other inmates.

7.) The defendants' actions and intention were not designed to serve Plaintiff's protection from harm. The defendants, Heath, Potter, Whittaker, Raup, Galletta moved outside of the framework of policy and procedures, and the laws that established in to the foundation of this Country. The defendants have subjected Plaintiff to their own perception of what they wanted or thought to do and throw everything else like justice out the window.

8.) In, Arnold vs. Jones 891 F.2d 1370 (8th cir 1989) The eighth Circuit had retreated from this view explaining that prison officials act with deliberate indifference to an inmate safety when the official is present at the same time the assault or battery is taken place and fails to intervene or other-wise act to end the assault. And see, Williams vs. Mueller 13 F.3d 1214, 1216 (8th cir, 1994). The defendants had actual knowledge of plaintiff enemys from the many interviews upon Plaintiff entering this s.m.v. program at Lewisburg Pa.

Conclusion,

Plaintiff, understands that this Honorable Court has align its perception of Right and wrong and have been consistent with how the law defines it. The plaintiff looks to this Honorable Court seeking the relief ~~in~~ ~~set~~ in Plaintiff's complaint (Doc. 1.). And That this Honorable Court make judgment in Favor of the Plaintiff for the pain and suffering that was inflicted upon him by the Defendants. And Their violation of the Constitutional Rights of all prisoners in this land.

Submitted  
 Elmer A. Shelton  
 415469-066 11/6/11  
 P.O. Box 1000  
 Lewisburg Pa 17837

Inmate Name: Norman, Stephen  
Register Number: 43969-066  
United States Penitentiary  
P.O. Box 1000  
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11-6-11

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